

**Rule 59. New trials; ~~amendments of~~ altering or amending a judgment.**

**(a) Grounds.** ~~Subject to the provisions of~~ Except as limited by Rule 61, a new trial may be granted to all or any of the parties and on all or part of the issues, any party on any issue for any of the following causes; provided, however, that on a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment reasons:

(a)(1) ~~Irregularity in the proceedings of the court, jury or~~ adverse-opposing party, or any order of the court, or abuse of discretion by which ~~either a party was prevented from having a fair trial;~~

(a)(2) ~~Misconduct of the jury; and whenever any one or more of the jurors have been induced to assent to any general or special verdict, or to a finding on any question submitted to them by the court, by resort to a determination by chance or as a result of bribery, such misconduct, which~~ may be proved by the affidavit or declaration of any ~~one of the jurors;~~

(a)(3) ~~An~~ Accident or surprise, which ordinary prudence could not have guarded against;

(a)(4) ~~Newly discovered material evidence, material for the party making the application, which he could not, with reasonable diligence, have been discovered and produced at the trial;~~

(a)(5) ~~Excessive or inadequate damages, appearing to have been given under the influence of passion or prejudice;~~

(a)(6) ~~Insufficiency of the evidence to justify the verdict or other decision, or that it~~ the verdict or decision is against law; or

(a)(7) ~~Error in law.~~

**(b) Time for motion.** A motion for a new trial ~~shall be served not~~ must be filed no later than 14-28 days after ~~the~~ entry of the judgment.

**(c) Affidavits; time for filing.** When the ~~application-motion~~ application for a new trial is ~~made~~ filed under ~~Subdivision paragraph (a)(1), (2), (3), or (4), it shall~~ must be supported by affidavit or declaration. ~~Whenever~~ If a motion for a new trial is ~~based upon~~ supported by affidavits or declarations, they ~~shall~~ must be served with the motion. ~~The opposing party has 14 days after such service within which to serve opposing affidavits. The time within which the affidavits or opposing affidavits shall be served may be extended for an additional period not exceeding 21 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.~~

**(c) Further action after non-jury trial.** After a nonjury trial, the court may, on motion for a new trial, open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct entry of a new judgment.

**(d) ~~On~~ New trial on initiative of court or for reasons not in the motion.** ~~Not~~ No later than 14-28 days after entry of the judgment the court, ~~of~~ on its own, ~~initiative~~ may order a new trial for any reason ~~for which it might have granted that would justify a new trial on motion of a party, and in the order shall specify the grounds therefor. After giving the parties notice and an opportunity to be heard, the court may~~

38 grant a timely motion for a new trial for a reason not stated in the motion. The order granting a new trial  
39 must state the reasons for the new trial.

40 **(e) Motion to alter or amend a judgment.** A motion to alter or amend the judgment ~~shall be served~~  
41 ~~not~~ must be filed no later than ~~44~~ 28 days after entry of the judgment.

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